

REMARKS

The present invention is directed to compositions and methods for manipulating mycobacterial gene expression for the modification of heat shock protein production. In particular, the compositions and methods of the present invention provide a vehicle for therapeutic intervention in mycobacterial disease.

Claims 1-20 were pending in the above-identified application. In response to the Office Action dated March 21, 2003 and in order to facilitate prosecution, Claims 9-18 are withdrawn herein and Claims 1-8, 19 and 20 are now currently pending. No new matter has been added. Applicants submit the following remarks in an effort to address the rejections raised in the Office Action.

Restriction

In the Office Action dated March 21, 2003, the Examiner requested restriction to one of the following inventions as required under 35 U.S.C. 121:

- I. Claims 1-8, 19, 20, drawn to composition of whole bacteria with modified protein production, classified in Class 435, Subclass 69.1; and
- II. Claims 9-18, drawn to method of immunization, classified in Class 424, Subclass 9.1.

The Examiner stated that the inventions are distinct, each from the other because they are related as product and process of use. The Examiner further stated that because the inventions are distinct while the searches may overlap, the searches are not coextensive and therefore restriction is deemed proper. Applicants respectfully traverse. Applicants submit that the inventions are closely related and that search of both groups should not be burdensome. The inventions are related in that Group II simply uses the compositions of Group I and therefore, search of Group II should necessarily encompass Group I. In order to facilitate prosecution however, applicants herein select the Group I and maintain the right to pursue the claims of Group II at a later time.

Election of Species

In the Office Action dated March 21, 2003, the Examiner stated that this application contains claims directed to the following patentably distinct species of the claimed invention:

First Species Election = choose one of the following: *M. tuberculosis*, *M. avium-intracellulare*, *M. bovis*, *M. kansasii*, *M. fortuitum*, *M. chelonae*, *M. leprae*, *M. africanum*, *M. microti*, *M. paratuberculosis*.


Second Species Election = choose one of the following: Hsp10, Hsp40, Hsp60, Hsp70, Hsp90, GrpE, ClpB, alpha-crystallin.

The Examiner stated that election of a single disclosed species for prosecution on the merits was necessary. In an effort to facilitate prosecution, applicants herein elect *M. tuberculosis* for the first species election and Hsp70 for the second species election.

Conclusion

In light of the amendments, Applicants are of the opinion that Claims 1-8, 19 and 20 are now in condition for allowance. Such action is respectfully requested. If the Examiner believes any informalities remain in the application which may be corrected by Examiner's Amendment, or there are any other issues which can be resolved by telephone interview, a telephone call to the undersigned attorney at (404) 745-2463 is respectfully solicited.

Respectfully submitted,


Sima Singadia Kulkarni
Registration No. 43,732

KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree St.
Atlanta, GA 30309-2463
Telephone: (404) 745-2463
Our File: 19626-0211 (45454/270653)